

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 22, 2004

IN RE:

**PETITION OF ATMOS ENERGY CORPORATION FOR
APPROVAL OF GAS TRANSPORTATION
AGREEMENT WITH THE GOODYEAR TIRE AND
RUBBER COMPANY**

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**DOCKET NO.
03-00540**

**ORDER GRANTING PETITION TO COMMENCE A CONTESTED CASE
AND TO INTERVENE AND REQUESTING PROPOSED PROTECTIVE
ORDER AND PROCEDURAL SCHEDULE**

This matter is before the Hearing Officer upon the *Petition to Commence a Contested Case and to Intervene* ("Petition") filed by the Energy and Water Division Staff of the Tennessee Regulatory Authority ("Staff") on February 23, 2004.

Background

On September 30, 2003, Atmos Energy Corporation ("Atmos") filed a *Petition of Atmos Energy Corporation for Approval of Gas Transportation Agreement with the Goodyear Tire and Rubber Company*, seeking approval of a special contract Atmos has negotiated with The Goodyear Tire and Rubber Company ("Goodyear") to provide natural gas transportation service for Goodyear's facility located in Union City, Tennessee. At a regularly scheduled Authority Conference held on October 21, 2003, a majority of the panel voted to suspend the contract for ninety (90) days and to appoint the Authority's General Counsel or his designee to act as the Hearing Officer in this proceeding to hear preliminary matters prior to the Hearing, to rule on any

petition(s) for intervention, and to set a procedural schedule to completion.¹ On January 29, 2004, the Hearing Officer re-suspended the contract through March 29, 2004. On February 23, 2004, the Staff of the Energy and Water Division of the Tennessee Regulatory Authority filed its *Petition to Commence a Contested Case and to Intervene* in this matter.

Criteria for Permitting Intervention

Tenn. Code Ann. § 4-5-310(a) sets forth the following criteria for granting petitions to intervene:

- (a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if:
 - (1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;
 - (2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of the law; and
 - (3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

In addition, Tenn. Comp. R. & Regs. 1220-1-2-.21(3) states:

- (1) In any other contested case proceeding, designated staff members, represented by the general counsel or other counsel employed by the Authority, may participate as a party.

Discussion

The Hearing Officer finds the *Petition* filed by Staff was timely filed and served and substantiated that the legal rights, duties, privileges, immunities or other legal interests of the

¹ Director Ron Jones abstained from voting on the motion. See *Order Suspending Special Contract for Ninety Days and Appointing a Hearing Officer* (February 19, 2004)

intervenor may be determined in this matter. The Hearing Officer further finds that the orderly and prompt conduct of this proceeding will not be impaired by granting the *Petition*. In addition, no person or party has filed an objection to Staff's *Petition*. Upon applying the standards set forth in Tenn. Code Ann. § 4-5-310(a) and Tenn. Comp. R. & Regs. 1220-1-2-.21(3), and the provisions of Tenn. Comp. R. & Regs. 1220-1-2-.02, the Hearing Officer grants Staff's *Petition to Commence a Contested Case and to Intervene*.

In its *Petition*, Staff discusses at length the conditions of confidentiality placed on the filings in this Docket by Atmos and the Authority's statutory inability to accept those conditions.² Staff points out that, as a party, it will have the "ability to assent to the conditions placed upon the filings made by Atmos in this Docket through a protective order..."³ The Hearing Officer finds that to efficiently and expeditiously move this matter toward resolution it is necessary to address the issue of confidentiality of these filings through a protective order and to set a procedural schedule as soon as practicable. Therefore, the Hearing Officer and parties would benefit from proposals for a protective order and a procedural schedule being filed prior to the holding of a status conference. Each proposal for a procedural schedule submitted by the parties should include dates for any pre-hearing matters and at least three (3) proposed hearing dates.

IT IS THEREFORE ORDERED THAT:

1. The *Petition to Commence a Contested Case and to Intervene* filed by the Staff of the Energy and Water Division of the Tennessee Regulatory Authority is hereby granted.

² *Petition to Commence a Contested Case and to Intervene*, pp 2-4 (February 23, 2004)

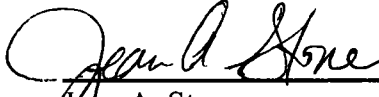
³ *Id*, p 4 (February 23, 2004)

2. The Staff of the Energy and Water Division of the Tennessee Regulatory Authority shall receive copies of any notices, orders or other documents herein.

3. Staff shall identify those individuals participating as a Party to all interested parties and staff of the Authority so as to prevent *ex parte* communications.⁴

4. Any party who wishes to file a joint or separate proposal for a protective order in this matter shall file such proposed protective order no later than Friday, March 26, 2004.

5. Any party who wishes to file a joint or separate proposal regarding a procedural schedule in this matter, including three proposed hearing dates, shall do so according to the minimum requirements stated herein and shall file such proposed procedural schedule no later than Friday, March 26, 2004.


Jean A. Stone
Hearing Officer

⁴ See Tenn Comp R & Regs 1220-1-2- 21(5)